

HOUSE BILL NO. 2042

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Murphy)

A BILL to amend and reenact § 18.2-57.2 of the Code of Virginia, relating to assault and battery against a family or household member; prior conviction; mandatory minimum term of confinement.

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-57.2 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-57.2. Assault and battery against a family or household member; penalty.**

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of an offense that occurred within a period of 20 years of the instant offense against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding or unlawful wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, (v) strangulation in violation of § 18.2-51.6, or (vi) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses is guilty of a Class 1 misdemeanor and the sentence of such person shall include a mandatory minimum term of confinement of 60 days.

C. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding or

27 unlawful wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-
28 51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, (v) strangulation in
29 violation of § 18.2-51.6, or (vi) an offense under the law of any other jurisdiction which has the same
30 elements of any of the above offenses, in any combination, all of which occurred within a period of 20
31 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

32 ~~C.~~D. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an
33 emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an
34 emergency protective order shall not be required.

35 ~~D.~~E. The definition of "family or household member" in § 16.1-228 applies to this section.

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